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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-097

Polyester Textured Yarn from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) determines that imports of polyester textured yarn (yarn) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6905.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2019, Commerce published in the *Federal Register* its preliminary affirmative determination in the LTFV investigation of yarn from China and invited parties to comment.¹ A

¹ See *Polyester Textured Yarn from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures*, 84 FR 31297 (July 1, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

summary of the events that occurred since Commerce published the *Preliminary Determination* may be found in the Issues and Decision Memorandum.²

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Period of Investigation

The period of investigation is April 1, 2018 through September 30, 2018.

Scope of the Investigation

The product covered by this investigation is polyester textured yarn from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

During the course of this investigation and the concurrent countervailing duty (CVD) investigation of yarn from China, and concurrent antidumping duty (AD) and CVD investigations of yarn from India, certain interested parties commented on the scope of the investigations as it appeared in the *Initiation Notice*.³ Commerce addressed these comments in the *Preliminary Determination*, wherein Commerce preliminarily modified the scope language

² See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Polyester Textured Yarn from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See *Polyester Textured Yarn from India and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 58223, 58233 (November 19, 2018) (*Initiation Notice*).

as it appeared in the *Initiation Notice* to exclude bulk continuous filament yarn.⁴ No interested parties commented on the preliminary exclusion of bulk continuous filament yarn. Thus, we have made no changes to the scope language from the *Preliminary Determination* with regard to bulk continuous filament yarn.

In the *Preliminary Determination*, we also noted that, on May 2, 2019, the petitioners⁵ requested that Commerce include an additional Harmonized Tariff Schedule of the United States (HTSUS) subheading in the scope language.⁶ We stated our intent to address this request in the final determinations of this and the above-referenced concurrent investigations. Specifically, the petitioners requested that Commerce add HTSUS 5402.52.00 covering twisted yarn to the scope of the investigations.⁷ As no interested parties rebutted the petitioners' request to add this HTSUS subheading, and Commerce finds the petitioners' request is reasonable, we have revised the scope of the investigations to include HTSUS 5402.52.00. See Appendix I for the final scope of the investigation.

Final Affirmative Determination of Critical Circumstances

On April 18, 2019, Commerce issued its preliminary determination that critical circumstances exist for imports from all producers and exporters of yarn from China.⁸ In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries from all exporters and producers of yarn from China that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the

⁴ See *Preliminary Determination*, 84 FR at 31298.

⁵ Unifi Manufacturing, Inc., and Nan Ya Plastics Corporation, America are, collectively, the petitioners.

⁶ See *Preliminary Determination*, 84 FR at 31298

⁷ See Petitioners' Comments, "Request to Include HTSUS Subheading 5402.52 in the Scope of These Investigations," dated May 2, 2019.

⁸ See *Polyester Textured Yarn from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping and Countervailing Duty Investigations*, 84 FR 16840 (April 23, 2019).

publication of the *Preliminary Determination*, April 2, 2019.⁹ For this final determination, we continue to find that critical circumstances exist for all imports of yarn from China, pursuant to section 735(a)(3) of the Act and 19 CFR 351.206.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II.

China-Wide Entity

For the final determination, we continue to find that the China-wide entity, which includes certain Chinese exporters and/or producers that did not respond to Commerce's requests for information, failed to provide necessary information, failed to provide information in a timely manner, and significantly impeded the proceeding. Commerce continues to rely upon facts otherwise available, with adverse inferences (AFA), for the China-wide entity pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act). The China-wide entity includes each of the following companies selected for individual examination: Fujian Zhengqi Hi-tech Fiber Technology Co., Ltd; Suzhou Shenghong Fiber Co., Ltd.; and the single entity comprising Fujian Billion Polymerization Fiber Technology Industrial Co., Ltd. and its affiliate Fujian Baikai Textile Chemical Fiber Co., Ltd. As AFA, we continue to assign the highest margin alleged in the Petition of 77.15 percent.¹⁰

⁹ See *Preliminary Determination*, 84 FR at 31299.

¹⁰ See Petitioners' Letter, "Polyester Textured Yarn from the People's Republic of China and India—Petition for the Imposition of Antidumping and Countervailing Duties," dated October 18, 2018 (Petition); see also Petitioners' Letter, "Polyester Textured Yarn from the People's Republic of China – Petitioners' Supplement for Volume II Regarding China Antidumping Duties," dated October 29, 2018, at 7 and Exhibit AD-PRC-Supp-5; and Initiation Checklist, dated November 7, 2018, at 12.

Separate Rates

For the final determination, we continue to find that one exporter, Jiangsu Hengli Chemical Fiber Co., Ltd. (Hengli), which was not selected for individual examination in this investigation, demonstrated eligibility for a separate rate. In the *Preliminary Determination*, we stated that, because none of the mandatory respondents received a separate rate and we determined the China-wide rate based on AFA, we looked to section 735(c)(5)(B) of the Act for guidance and, consistent with that provision, used “any reasonable method” to determine the rate for exporters that are not being individually examined and found to be entitled to a separate rate. As “any reasonable method,” we found it appropriate to assign the simple average of the Petition rates (*i.e.*, 76.07 percent)¹¹ to Hengli, the separate rate applicant not individually examined, consistent with our practice.¹² For the final determination, we continue to find the method applied in the *Preliminary Determination* to be the most reasonable, and thus, continue to assign the simple average of the Petition rates to Hengli.

Combination Rates

As explained in the *Initiation Notice* and implemented in the *Preliminary Determination*, we have continued to calculate producer/exporter combination rates for the respondents that are eligible for a separate rate.¹³ Policy Bulletin 05.1 describes this practice.¹⁴

¹¹ See *Preliminary Determination*, 84 FR at 31298. The individual Petition rates, as initiated, are 74.98 percent and 77.15 percent. The simple average of these two Petition margins is 76.07 percent.

¹² See, *e.g.*, *Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, and Preliminary Affirmative Determination of Critical Circumstances*, 84 FR 16643 (April 22, 2019) (“As ‘any reasonable method,’ we find it appropriate to assign the simple average of the Petition rates...to Chungang Machinery, the separate rate applicant not individually examined.”), unchanged in *Certain Steel Wheels 12 to 16.5 Inches in Diameter From the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances*, 84 FR 32707 (July 9, 2019).

¹³ See *Initiation Notice*, 83 FR at 58227; see also *Preliminary Determination*, 84 FR at 31299.

¹⁴ See Enforcement and Compliance’s Policy Bulletin No. 05.1, regarding, “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries,” (April 5, 2005) (Policy Bulletin 05.1), available on Commerce’s Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

Final Determination

The final estimated dumping margins are as follows:

Producer	Exporter	Estimated Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Export Subsidy Offset) (percent)
Jiangsu Hengli Chemical Fiber Co., Ltd.	Jiangsu Hengli Chemical Fiber Co., Ltd.	76.07	65.39
China-Wide Entity ¹⁵		77.15	66.47

Disclosure

As we stated in the *Preliminary Determination*, because Commerce has continued to apply AFA to the China-wide entity, of which mandatory respondents are a part, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the Petition, and the rate assigned to the sole separate rate company was a simple average of the Petition rates, there are no calculations to disclose.¹⁶

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of yarn from China, as described in Appendix I, from the separate rate company, Hengli, and the China-wide entity, and, in accordance with section 735(c)(4) of the Act, because we continue to find that critical circumstances exist, we will instruct CBP to continue to suspend

¹⁵ The China-wide entity includes: (1) the single entity comprising Fujian Billion Polymerization Fiber Technology Industrial Co., Ltd. and its affiliate Fujian Baikai Textile Chemical Fiber Co., Ltd.; (2) Suzhou Shenghong Fiber Co., Ltd. (3) Fujian Zhengqi Hi-tech Fiber Technology Co., Ltd.; (4) Chori (China) Co., Ltd.; (5) Jinjiang Jinfu Chemical Fiber and Polymer Co., Ltd.; (6) Jiangsu Guowang High-Technique Fiber Co., Ltd.; and (7) Pujiang Fairy Home Textile Co., Ltd. In addition, 33 companies named in the Petition did not respond to our request for quantity and value information and two companies that submitted quantity and value data did not submit separate rate applications. Those companies are also part of the China-wide entity and are identified in the Preliminary Decision Memorandum.

¹⁶ See *Preliminary Determination*, 84 FR at 31298-99.

liquidation of all appropriate entries of yarn from China which were entered, or withdrawn from warehouse, for consumption on or after April 2, 2019, which is 90 days prior to the date of publication of the *Preliminary Determination* in the *Federal Register*.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion CVD proceeding when CVD provisional measures are in effect. Accordingly, where Commerce makes an affirmative determination for domestic subsidy pass-through or export subsidies, Commerce offsets the calculated estimated weighted-average dumping margin by the appropriate rate(s). We have made an affirmative final determination for export subsidies for certain respondents and all others in the companion CVD investigation.¹⁷ However, suspension of liquidation for provisional measures in the companion CVD case has been discontinued; therefore, we are not instructing CBP to collect cash deposits based upon the adjustment for those export subsidies at this time.

Pursuant to section 735(c)(1)(B)(ii) of the Act, Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price as follows: (1) the cash deposit rate for the exporter/producer combination listed in the table above will be the rate identified for that combination in the table; (2) for all combinations of exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the China-wide entity; and (3) for all non-Chinese exporters of the merchandise under consideration which

¹⁷ The following subsidy programs in the final determination of the concurrent CVD investigation are export subsidies calculated for Fujian Billion: 0.14 percent (Export Assistance Grants) and 10.54 percent (Export Buyer's Credit), resulting in a total export subsidy rate of 10.68 percent. See Polyester Textured Yarn from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances (unpublished), and accompanying Issues and Decision Memorandum. The final determination in this companion CVD proceeding will be concurrently released on the same day as this final determination.

have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the Chinese exporter/producer combination that supplied that non-Chinese exporter. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of yarn from China, no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of yarn from China entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: November 13, 2019

/S/ Jeffrey I. Kessler

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packing method (such as spindles, tubes, or beams).

Excluded from the scope of the investigation is bulk continuous filament yarn that: (a) is polyester synthetic multifilament yarn; (b) has denier size ranges of 900 and above; (c) has turns per meter of 40 and above; and (d) has a maximum shrinkage of 2.5 percent.

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Merchandise subject to this investigation may also enter under HTSUS subheading 5402.52.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Discussion of the Issues
 - Comment 1: Separate Rate Status of Fujian Billion Polymerization Fiber Technology Industrial Co., Ltd.
 - Comment 2: Authority to Collect Cash Deposits Based Upon an Affirmative Preliminary Critical Circumstances Determination
- IV. Recommendation

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